

REMARKS

Claims 1-3 and 5-15 are currently pending in the application. By this amendment, independent claims 1 and 13-15 are amended. The independent claims are amended to clarify that the pressure displaceable member has an inner face contiguous with the interior of the chamber. Applicant respectfully asserts that the language added to the independent claims does not contain new matter and is inherent from the disclosure.

Claims 1-3, 5, 7, 8, and 12-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kase (U.S. Patent No. 5,749,368). Claim 6 is rejected under 35 U.S.C. § 103(a) as being obvious over Kase. Claims 9-11 are rejected under 35 U.S.C. § 103(a) as being obvious over Kase in view of Aylsworth et al. (U.S. Patent No. 5,911,219). Applicant respectfully traverses the rejections.

Claim Rejections – 35 USC 102

Claims 1-3, 5, 7, 8 and 12-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kase. Applicant respectfully traverses the rejection.

The present invention is a device for detecting the flow of gas, comprising (1) an inlet for receiving said gas flow, (2) a chamber having an interior in pressurewise association with the inlet, (3) an outlet, located downstream of the chamber, and open to ambient pressure, and (4) a pressure displaceable member having an inner face exposed to and contiguous with the interior of the chamber and an outer face exposed to the ambient pressure. The inlet, chamber and outlet are configured together to allow the gas flow to pass through the device of. The member is displaceable as a result of a differential in respective pressures of the chamber interior and the ambient pressure. The displacement is indicative of the flow of gas through the device.

The present invention also discloses a method for use of the device.

Contrariwise, Kase discloses a gauge for measuring the expiratory airflow pressure of a musician (Col. 2, lines 10-16). The gauge comprises a main body 12 having a hollow interior 14 and an exit aperture 16 extending through a sidewall to permit fluid communication between the hollow interior 14 and the ambient air exterior of the main body 12. The gauge further comprises a first threaded end 18 for receiving the threaded neck 20 of an extension tube 22 (Col. 3, line 66 – col. 4, line 7). A rotary pressure gauge

36 is threadably mounted to the main body 12 and extends into fluid communication with the hollow interior 14 (Col. 4, lines 29-31).

However, Kase does not disclose or suggest at least a pressure displaceable member having an inner face exposed to and contiguous with the interior of said chamber and an outer face exposed to the ambient pressure, as required by independent claims 1 and 13-15.

Contrarily, Kase discloses only a rotary pressure gauge. Thus, independent claims 1 and 13-15 are not anticipated by Kase under 35 U.S.C. § 102(b). Moreover, the device of Kase is not designed to measure the nearly imperceptible pressure changes required in a medical setting. Therefore, Kase does not disclose or suggest the invention of independent claims 1 and 13-15. Moreover the recitations of these claims are not obvious under 35 U.S.C. § 103(a) in view of Kase.

Dependent claims 2-3, 5, 7, 8 and 12, dependent from independent claim 1 are therefore also not anticipated by Kase under 35 U.S.C. § 102(b). Therefore, Applicant respectfully requests that the rejection under 35 U.S.C. § 102(b) be withdrawn.

Claims rejections – 35 USC 103

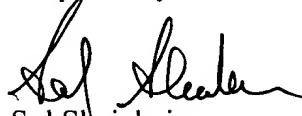
Dependent claim 6 is rejected under 35 U.S.C. § 103(a) as being obvious over Kase. Further, dependent claims 9-11 are rejected under 35 U.S.C. § 103(a) as being obvious over Kase in view of Aylsworth et al. Dependent claims 6 and 9-11 depend from independent claim 1. Applicant respectfully traverses the rejections.

Aylsworth et al. discloses a therapeutic gas flow meter and monitor in which a float ball 111 and indicator marks 113 are provided for a visual determination of a flow rate (col. 4, lines 10-12).

Therefore, since Aylsworth fails to overcome the inadequacies of Kase, dependent claim 6 and 9-11 are not obvious over Kase in view of Aylsworth et al under 35 U.S.C. § 103(a). Therefore, Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) be withdrawn

In view of the foregoing, it is submitted that claims 1-3 and 5-15 pending in the application are allowable. A Notice of Allowance is therefore respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sol Sheinbein', written in a cursive style.

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